

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA**

<b>BRANDY WHITE, et al.,</b>	)	
	)	
	)	
	)	
Plaintiffs,	)	
	)	
v.	)	<b>Case No. CIV-22-061-RAW-DES</b>
	)	
<b>SCOTT MATTHEWS, et al.,</b>	)	
	)	
	)	
	)	
Defendants.	)	

**ORDER**

Before the court is the objection of the plaintiffs and the limited objection of the defendants to the Report and Recommendation of the United States Magistrate Judge. He recommended that the defendants’ second motion for discovery sanctions be granted in part and this action be dismissed without prejudice.

Each side having filed a timely objection, the court must conduct a de novo review of the issues specifically raised by the objection, and may accept, modify, or reject the recommended disposition. *See* 28 U.S.C. §636(b)(1); Rule 72(b)(3) F.R.Cv.P.

The undersigned agrees with the defendants that “Magistrate Judge Snow’s Report and Recommendation sets out a factually accurate and well-reasoned analysis of the issues raised. . . .” (#98 at 1). The limited objection seeks dismissal with prejudice. This will not be ordered. Dismissal with prejudice represents an extreme sanction, and thus is considered

appropriate only in cases involving willfulness, bad faith, or some fault on the part of the party to be sanctioned. *The Procter & Gamble Co. v. Haugen*, 427 F.3d 727, 738 (10<sup>th</sup> Cir.2005)(citation omitted). Because dismissal with prejudice defeats altogether a litigant's right of access to the courts, it should be used as a weapon of last, rather than first, resort. *Id.* (citation omitted). The undersigned is persuaded its discretion is properly exercised in affirming the Magistrate Judge.

Plaintiffs object to dismissal of any sort, but indicate they still have not complied fully with the previous discovery orders entered by the Magistrate Judge. The Report and Recommendation explains a reluctance to impose monetary sanctions under these circumstances. (#97 at 7). On the other hand, "nothing but dismissal would be adequate to address the continuous and blatant disregard for this Court's directions." *Id.*

It is the order of the court that the Report and Recommendation (#97) is affirmed and adopted as the order of the court. The second motion of the defendants for discovery sanctions (#79) is granted in part. This action is dismissed without prejudice.

**IT IS SO ORDERED** this 14<sup>th</sup> day of NOVEMBER, 2024.



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**RONALD A. WHITE**  
**UNITED STATES DISTRICT JUDGE**